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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 JUAN DAVID VASQUEZ-URIBE,

12 Petitioner,

13 v.

14 U.S. ATTORNEY GENERAL, et al.,

15 Respondents.
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Case No. CV 15-6807 ODW (AFM)

**ORDER DISMISSING ACTION
FOR FAILURE TO PROSECUTE**

17 On June 15, 2015, petitioner delivered a Petition for Writ of Habeas Corpus
18 by a Person in Federal Custody (28 U.S.C. § 2241) to prison officials at the federal
19 prison in Victorville, California, for filing in the district court for the Central
20 District of California ("Court"). The Petition was filed in the Court on September 2,
21 2015. The gravamen of petitioner's claims is that his parole eligibility
22 determination under the Sentencing Reform Act of 1984 violates the Equal
23 Protection Clause.

24 On September 9, 2015, petitioner was served with a Notice of Reference to a
25 U.S. Magistrate Judge. However, the Notice was returned to the Court undelivered.
26 The envelope in which the Notice was returned contained a handwritten notation
27 stating that petitioner had not been incarcerated at the Victorville facility since
28 July 14, 2015.

1 Central District Local Rule 41-6 provides:

2 “DISMISSAL - FAILURE OF PRO SE PLAINTIFF TO KEEP
3 COURT APPRISED OF CURRENT ADDRESS. A party appearing
4 pro se shall keep the Court and opposing parties apprised of such
5 party’s current address and telephone number, if any. If mail directed
6 by the Clerk to a pro se plaintiff’s address of record is returned
7 undelivered by the Postal Service, and if, within fifteen (15) days of
8 the service date, such plaintiff fails to notify, in writing, the Court and
9 opposing parties of said plaintiff’s current address, the Court may
10 dismiss the action with or without prejudice for want of prosecution.”

11 Here, petitioner has failed to notify the Court of his current address within 15
12 days of the service date of the undelivered mail described above, as required by
13 Local Rule 41-6. His failure to keep the Court apprised of his current address
14 renders this case indistinguishable from *Carey v. King*, 856 F.2d 1439, 1441 (9th
15 Cir. 1988). In *Carey*, the Ninth Circuit affirmed the district court’s dismissal of a
16 case for failure to prosecute and stated that “[i]t would be absurd to require the
17 district court to hold a case in abeyance indefinitely just because it is unable,
18 through the plaintiff’s own fault, to contact the plaintiff to determine if his reasons
19 for not prosecuting his lawsuit are reasonable or not.”

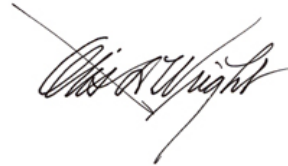
20 The Ninth Circuit cited the five factors as relevant to the district court’s
21 determination whether dismissal of a pro se plaintiff’s action is warranted: “(1) the
22 public’s interest in expeditious resolution of litigation; (2) the court’s need to
23 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
24 favoring disposition of cases on their merits, and (5) the availability of less drastic
25 sanctions.” *Carey, supra*, 856 F.2d at 1440. Here, the Court finds that the first,
26 second and fifth *Carey* factors militate in favor of dismissal. While the Court finds
27 that the third and fourth *Carey* factors do not militate in favor of dismissal, the
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1 Court has concluded that the other three factors in this instance outweigh the third
2 and fourth factors.

3 It therefore is ORDERED that the reference of this matter to the Magistrate
4 Judge is vacated; and that this action be dismissed without prejudice pursuant to
5 Federal Rule of Civil Procedure 41(b), Local Rule 41-6 and the Court's inherent
6 power to achieve the orderly and expeditious disposition of cases by dismissing
7 actions for failure to prosecute. *See also Link v. Wabash R.R.*, 370 U.S. 626, 629-
8 30 (1962).

9 LET JUDGMENT BE ENTERED ACCORDINGLY.

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11 DATED: October 5, 2015



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13 _____
14 OTIS D. WRIGHT, II
15 UNITED STATES DISTRICT JUDGE

16 Presented By:

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19 ALEXANDER F. MacKINNON
20 UNITED STATES MAGISTRATE JUDGE
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